IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

FRIDAY, THE 19TH JANUARY 2007 / 29TH PAUSHA 1928

WP(C).No. 18006 of 2006(R)

PETITIONER:

MANAGER,
RAMAN MEMORIAL VOCATIONAL HIGHER SECONDARY SCHOOL, PERINJANAM, THRISSUR DISTRICT,
REPRESENTED BY THE CORRESPONDENT.

BY ADV. SRI.KRB.KAIMAL
SRI.V.MADHUSUDHANAN

RESPONDENTS:

---

1. STATE OF KERALA, REPRESENTED BY THE SECRETARY TO GOVT. OF KERALA, GENERAL EDUCATION DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM.

2. THE DIRECTOR, VOCATIONAL HIGHER SECONDARY EDUCATION, THIRUVANANTHAPURAM.

3. THE DISTRICT EDUCATIONAL OFFICER, CHAVAKKAD, THRISSUR DISTRICT.

4. SMT. K.B.DIVYA, KOLLARA HOUSE, PERINJANAM, THRISSUR DISTRICT.

R1 TO R3 BY GOVT. PLEADER SMT. M.R. SREELATHA.
R4 BY ADV. SRI.V.A.MUHAMMED
SRI.K.E.HAMZA

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 19/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.M.JOSEPH, J.

- -

WP.(C) No. 18006 OF 2006

- -

Dated this the 19th day of January, 2007

JUDGMENT

Case of the petitioner is as follows:

Petitioner is the Manager of Vocational Higher Secondary School. He is also Manager of a High School. The mother of the fourth respondent was a HSA in the High School of the petitioner. She died while in service on 15.2.2000. Fourth respondent submitted Ext.P1 application for compassionate appointment as Clerk or any other suitable post. She also submitted Ext.P2 representation before the first respondent to appoint her as a Clerk or in any other vacancy by creating a supernumerary post, if no vacancy is available. Thereafter she filed a writ petition, which was disposed of by Ext.P3 judgment directing the first respondent to consider and take a decision on Ext.P2 after hearing the parties. The second respondent by Ext.P4 addressed to the Assistant Director with copy to the petitioner to keep in abeyance the selection proceedings in view of the hearing proposed by the Government in terms of Ext.P3 judgment. Petitioner filed writ petition against the same, which is pending. Thereafter in compliance with

Ext.P3 judgment the first respondent heard the petitioner and the fourth respondent and even though the petitioner objected on various grounds, by Ext.P5 the first respondent has allowed the claim of compassionate appointment and directed the petitioner to consider the claim of the fourth respondent under Rule 51B of Chapter XIVA KER and related Government Orders and that the Educational authorities shall not approve any other appointments in the School against Rule 51B. In the order there is also a statement that the Educational authorities have been directed to take action to cancel the approval of appointment of one Sri.Jijith as Clerk. It is the case of the petitioner that the second respondent is not permitting the petitioner to conduct selection to the vacancy of Clerk in the Vocational Higher Secondary School on the basis of the above order. Ext.P6 is the judgment relied on by the petitioner to contend that a person claiming under Rule 51B cannot lay a claim except in respect of an aided school and therefore there cannot be any claim in respect of the petitioner in the Vocational Higher Secondary School. A perusal of paragraph 8 of Ext.P5 would show that the post in question was the post of Clerk in the Vocational

Higher Secondary School.

2. I heard counsel for the fourth respondent Sri.K.E.Hamsa. There is no dispute regarding the fact that the question as to whether claim under Rule 51B cannot be raised in Vocational Higher Secondary School is covered by judgment reported in **Pathanapuram Taluk Samajam Corporate Management Schools v. Sreelatha** (2006(3) K.L.T. 867) against the fourth respondent.

In such circumstances Ext.P5 cannot be sustained and Ext.P5 is quashed. However, I make it clear that the claim of the fourth respondent will be considered in accordance with law under Rule 51B when a vacancy arises in the High School Section.

(K.M. JOSEPH, JUDGE)

sb

K.M.JOSEPH, JJ.

- - - - - - - - -- -

W.A. No. OF

- -- - - - - - - - - - - - - - -

JUDGMENT

Dated this the day of February, 2006.